

**THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

DATE 1/21/2021

DISTRICT JUDGE
Amos L. Mazzant, III

COURT REPORTER: Jan Mason
COURTROOM DEPUTY: Keary Conrad

UNITED STATES OF AMERICA

V.

MAXINE MITCHELL

CASE NUMBER 4:19-CR-309

ATTORNEY FOR GOVERNMENT

Matthew Johnson

ATTORNEY FOR DEFENDANT

Mark Aronowitz

On this day, came the parties by their attorneys and the following proceedings were held in Sherman, TX:

TIME:	MINUTES: Sentencing
11:43 a.m.	Court in session. Court notes appearances. Parties have reviewed PSR. Defendant acknowledges he fully understands the PSR. No additions, corrections, or comments by the Government. No additions, corrections, or comments by counsel for the Defendant. No objections by Government.
11:45 a.m.	Court hears argument from Defendant's counsel, Mark Aronowitz regarding criminal history. Defendant begins with objection to adjustment increase because of firearm. Court hears response from Government regarding 2+ enhancement as to firearm. Court overrules the Defendant's objection and finds that constructive possession is appropriate for the enhancement to apply.
11:50 a.m.	Court hears Defendant's objection that Defendant did not receive a 2-point reduction for a mitigating role. Court hears response from Government. Government does not oppose a 2-point reduction. Court will sustain the objection and adjust paragraph 26 and allow the -2 reduction under §3B1.12.
11:52 a.m.	Court hears Defendant's objection that if the Court had allowed her to not have the adjustment for the use of the weapon that she would qualify for the safety valve. Court overrules the objection. Constructive possession is enough to disqualify a Defendant for the safety valve.
11:53 a.m.	Court hears from Defendant's counsel regarding constructive and joint possession. The Court notes that for the record.
11:53 a.m.	The Court notes Defendant pled guilty to Count 1 of the Indictment pursuant to a non-binding plea agreement. Court accepts the plea agreement.
11:54 a.m.	The Government advises the Court that there is no objection to giving the Defendant back the 3-point reduction for acceptance of responsibility (paragraph 30). Because of the sustained objection and giving the 3-point reduction to the Defendant, the TOL 29, CHC I, Count 1: 87-108 months imprisonment. Without safety valve the Defendant's sentence would be 120 months. Court hears from Defendant's counsel regarding what he believes the appropriate sentence should be. The Defendant argues for 87 months but the Court

	advises that that would be an illegal sentence because of the safety valve. Defendant requests minimum of 120 months.
11:58 a.m.	Court hears argument from the Government.
11:58 a.m.	Defendant allocuted.
11:59 a.m.	The sentence imposed for a total term of 120 months imprisonment, the statutory minimum in this case. The sentence shall run concurrently with any sentence imposed in the 235 th Judicial District Court of Cooke County in Gainesville, Texas, Docket Number CR19-00851. Court recommends mental health and drug treatment while imprisoned. Fine waived, special assessment of \$100. Defendant is ineligible for all federal benefits for a period of 1 year. Supervised release for a term of 5 years. All mandatory and special conditions were referenced as outlined in the PSR.
12:02 p.m.	Court will recommend the Defendant be designated to BOP at Mendota or USP Atwater, California, if appropriate.
12:03 p.m.	Rights of appeal addressed.
12:05 p.m.	Court notes the Defendant's violation of pretrial release petition was filed on 11/9/2021 (Dkt. #184, <i>sealed</i>). Court notes that Magistrate Judge Kimberly Priest-Johnson has the case set for a detention hearing on 1/26/2021 at 10:15 a.m. after being continued from a previous setting of 12/28/2020 (Dkt. #202). Court rules the detention issue moot and will inform the Magistrate Judge. The detention hearing will be canceled as moot.
12:05 p.m.	Defendant remanded to custody of USM.

DAVID O'TOOLE, CLERK

BY: Kearny Conrad
Courtroom Deputy Clerk